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| 46320 7590 10/28/2008 CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP STEVEN M. GREENBERG 950 PENINSULA CORPORATE CIRCLE SUITE 3020 BOCA RATON, FL 33487 | | | | |
| EXAMINER | | | | |
| NAJEE-ULLAH, TARIQ S | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/635,587

Applicant(s)

KAMINSKY ET AL.

Examiner

TARIQ S. NAJEE-ULLAH

Art Unit

2456

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This Office action has been issued in response to Applicant's Amendment filed 21 July 2008. Claims 1-20 are pending in the case. Applicant is required to cancel the new matter in the reply to this Office Action.

Response to Arguments

2. Applicant's arguments regarding the rejection of claims 1-20 under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 6,167,445 to Gai et al ('Gai' hereinafter) in view of US Patent Number 5,557,747 to Rogers et al (Rogers hereinafter) have been considered but are not persuasive.

Applicant argues that Gai does not teach a "workflow component." Examiner respectfully disagrees. Per Applicant's specification, a "workflow component" is a component that "can be configured for communicative linkage to one or more policy makers...[and]...include a further configuration for routing stimuli and response data from the system under study to a selected one of the policy makers based upon an affiliation between the selected policy maker and a portion of the system under study" (Applicant's specification as filed, pg. 9, par. 18). Examiner interprets this workflow component to be any communicative linkage between one and more policy makers in a network. Gai teaches a plurality of switches, routers, intermediate devices and other communicative linkages, i.e. workflow component, that function within the policy server (Gai, col. 9, line 61 – col. 10, line 9).

Applicant argues that Gai does not teach a "policy maker." Examiner respectfully disagrees. Gai discloses a policy translator component (fig. 4, 410) which Examiner interprets to be comparable to a policy maker.

The Applicant's remaining arguments are directed to the Examiner's reliance upon Gai and Rogers to teach stimuli and response data as claimed. Specifically, Applicant rejects Examiner's interpretation of stimuli and response data and how it is

collected, detected and monitored. Applicant argues that the combination of Gai and Rogers does not teach stimuli and response data and how it is collected, detected and monitored. Per the Applicant's disclosure, pg. 9, par. 18, **stimuli** is defined as "a particular situation... 'disk is full', 'backup scheduled'... 'shutdown of database requested'... has arisen giving rise to an uncertainty within the system in respect to how to proceed." **Response** is defined as "a particular course of action is chosen... includ[ing] any course of action taken by the systems administrator in response to the stimuli (Applicant's disclosure, pg. 9, par. 18)." Examples of types of responses are "empty trash", 'conduct backup'... 'backup database before honoring shutdown request', etc. (Applicant's disclosure, pg. 9, par. 18). While Gai teaches high-level policies and rules generated (Gai, col. 6, lines 19-25), i.e. responses, in response to different network traffic situations and conditions (Gai, col. 6, line 12-19), i.e. stimuli, Gai does not explicitly teach the examples of stimuli and response presented in the Applicant's disclosure on pg. 9, par. 18. Examiner relies upon Rogers to teach this aspect of the invention.

In general, Rogers teaches a system which causes operations to be performed in a computer network, i.e. responses (Rogers, col. 4, lines 31-32), based on changes in state, i.e. stimuli (Rogers, col. 24-29), reported to the policy implementation system by monitors (Rogers, col. 4, lines 30-31) interfaced with the network system. Specifically, Rogers discloses **a systems administration component** (Rogers, col. 2, lines 6-9, i.e. systems administration component) **coupled to a system under study** (Rogers, col. 2, lines 10-14). Rogers discloses **stimuli** (Rogers col. 2, lines 17-18; *changing network*

states as signaled by events monitored within the network, i.e. stimuli) **and response data** (Rogers col. 2, lines 15-17; *execution of the computer network programs in response* to the aforementioned stimuli) **from said system under study** (Rogers, col. 2, lines 10-14). Rogers 'stimuli are collected and monitored by monitors which detect an event then signal the action interface to initiate the appropriate response (Rogers, col. 5, line 45 – col. 6, line 12).

Examiner encourages the modification of claim language that is more precisely descriptive and provides a more clear representation of what the Applicant presents as the invention in the specification wherever possible. Examiner also reminds Applicant that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Examiner maintains original grounds of rejection for all claims. For further explanation of the Examiner's interpretation of the Applicant's invention as claimed, Examiner encourages the Applicant to request an interview. The rejections are restated in this action as a courtesy to the Applicant.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 6,167,445 to Gai et al ('Gai' hereinafter) in view of US Patent Number 5,557,747 to Rogers et al (Rogers hereinafter).

Regarding claim 1, Gai discloses **a workflow component configured for communicative linkage to a plurality of policy makers** (Gai, fig. 4, 410, i.e. policy maker), **said workflow component comprising a further configuration for routing stimuli and response data from said system under study to a selected one of said policy makers** (Gai, Abstract, see also col. 5, line 64-col. 6, line 2; Gai discloses a computer network, i.e. systems under study, having multiple, dissimilar network devices includes a system for implementing high-level, network policies. The high-level policies, i.e. stimuli and response, which are generally device-independent, are translated by one or more policy servers, i.e. policy makers, into a set of rules that can be put into effect by specific network devices.); **and, a policy generation component** (Gai, fig. 4, 414) **coupled to said workflow component and configured to generate an administrative policy for administering said system under study based upon data collected from said selected one of said policy makers for said stimuli and response data** (Gai, Abstract, see also col. 6, lines 12-17; Gai further discloses policy server with a policy making component, i.e. policy maker, that translates the high-level policies inherent in the selected traffic template and location-specific policies into a set of rules, which may include one or more access control lists, and may combine several related rules into a single transaction.). Rogers discloses **a systems administration component** (Rogers, col. 2, lines 6-9, i.e. systems administration component) **coupled**

to a system under study (Rogers, col. 2, lines 10-14). Rogers discloses **stimuli** (Rogers col. 2, lines 17-18; *changing network states as signaled by events monitored within the network*, i.e. stimuli) **and response data** (Rogers col. 2, lines 15-17; *execution of the computer network programs in response to the aforementioned stimuli*) **from said system under study** (Rogers, col. 2, lines 10-14).

Gai and Rogers are analogous art because they are from the same field of endeavor of computer networks and policy. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use Roger's elements with Gai's system. The suggestion/motivation would be to provide a mechanism for automating the network administration process (Rogers, col. 2, lines 6-9).

Regarding claim 2, Gai discloses the invention substantially as described in claim 1 above including. Rogers discloses **a data store of stimuli and responses in said system under study** (Rogers, Col. 2, lines 24-31; a set of instructions defining responses to stimuli are stored in a policy editor). Gai and Rogers are analogous art because they are from the same field of endeavor of computer networks and policy. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use Roger's elements with Gai's system. The suggestion/motivation would be to provide a mechanism for automating the network administration process (Rogers, col. 2, lines 6-9).

Regarding claims 3 and 12, Gai discloses **detecting a stimuli in a system under study and monitoring a response by a systems administrator to said stimuli** (Gai, Col. 9, lines 51-55; Gai discloses the present invention provides a method

and apparatus for allowing network administrators, i.e. systems administrators, to apply high-level traffic management policies that attempt to impose such a uniform plan, despite the presence of dissimilar intermediate devices in their networks. Col. 12, lines 1-5; The traffic types for a given template are preferably derived from empirical studies and analysis of the computer network operations and usages of such industries and organizations.); **forwarding said stimuli and said response to a policy maker suited to analyze said stimuli and said response** (Gai, Col. 9, lines 55-57; Gai discloses the traffic management policies, moreover, may be automatically propagated to and implemented by the various intermediate devices.); **querying said policy maker for a preferred response to said stimuli** (Gai, Col. 7, lines 10-19; Gai discloses in the preferred embodiment, the policy servers and intermediate devices utilize an extension to the Common Open Policy Service (COPS) protocol to exchange messages. More specifically, an intermediate device sends a Query Configuration message to, i.e. queries, the policy server that contains specific information about itself, such as the number and type of interfaces, whether the device is at a boundary of the intermediate domain and/or whether its interfaces are coupled to trusted or un-trusted devices.); **and, formulating a policy for responding to said stimuli based upon said preferred response** (Gai, Col. 7, lines 21-24; Gai discloses the policy server selects a particular set of transactions or rules, i.e. formulates a policy, responsive to the device-specific information and provides them to the intermediate device.). Rogers discloses **monitoring a response by a systems administrator to said stimuli** (Rogers, col. 2, lines 32-34; network monitoring means). Rogers discloses **forwarding said stimuli**

and said response to a policy maker suited to analyze said stimuli and said response Rogers, col. 2, lines 24-31; a set of instructions defining responses to stimuli are stored in a policy editor. Rogers discloses **querying said policy maker for a preferred response to said stimuli** (Rogers, col. 2, lines 35-38, an action engine which supplies the predefined responses to the stimuli). Rogers discloses **formulating a policy for responding to said stimuli based upon said preferred response** (Rogers, col. 2, lines 38-49, policy interpreter interaction with action engine).

Gai and Rogers are analogous art because they are from the same field of endeavor of computer networks and policy. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use Roger's elements with Gai's system. The suggestion/motivation would be to provide a mechanism for automating the network administration process (Rogers, col. 2, lines 6-9).

Regarding claims 4 and 13, Gai discloses the invention substantially as described in claims 3 and 12 above including, **the step of enforcing said policy in managing said system under study** (Gai, Col. 4, lines 62-64).

Regarding claims 5 and 14, Gai discloses the invention substantially as described in claims 3 and 12 above including, **the step of forwarding said policy to said systems administrator** (Gai, Col. 12, lines 6-11).

Regarding claims 6 and 15, Gai discloses the invention substantially as described in claims 3 and 12 above including, **the step of storing said stimuli and response in a data store for subsequent analysis** (Gai, Fig. 4; Col. 14, line 57-62).

Regarding claims 7 and 16, Gai discloses the invention substantially as described in claims 3 and 12 above including, **monitoring the performance of said system under study in respect to said policy** (Gai, Col. 12, lines 6-11); and, **reporting said monitored performance to at least one of said systems administrator and said policy maker** (Gai, Col. 12, lines 6-11).

Regarding claims 8 and 17, Gai discloses the invention substantially as described in claims 3 and 12 above including, **identifying a policy maker among a plurality of policy makers, said identified policy maker having an association with at least one of said system under study, said stimuli and said response** (Gai col. 5, line 64-col. 6, line 2); and, **routing said stimuli and response to said identified policy maker** (Gai, col. 6, lines 12-17).

Regarding claims 9 and 18, Gai discloses the invention substantially as described in claims 3 and 12 above including, **identifying a policy maker among a plurality of policy makers** (Gai, col. 5, line 64-col. 6, line 2), **said identified policy maker having knowledge of another policy maker among said plurality of policy makers** (Gai, col. 5, line 64-col. 6, line 2), **said another policy maker having an association with at least one of said system under study** (Gai, col. 5, line 64-col. 6, line 2), **said stimuli and said response** (Gai, col. 5, line 66); and, **routing said stimuli and response to said identified policy maker, said identified policy maker further routing said stimuli and response to said another policy maker** (Gai, col. 6, lines 12-17).

Regarding claims 10 and 19, Gai discloses the invention substantially as described in claims 3 and 12 above including, **querying step further comprises the step of querying said policy maker for at least one of an identity of a related stimuli, an identity of a related response, and an identity of a related system to which said policy can apply** (Gai, Col. 7, lines 10-19).

Regarding claims 11 and 20, Gai discloses the invention substantially as described in claims 10 and 19 above including, **formulating said policy additionally based upon said at least one of said identity of said related stimuli, said identity of said related response, and said identity of said related system to which said policy can apply** (Gai, Col. 7, lines 21-24).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TARIQ S. NAJEE-ULLAH whose telephone number is (571)270-5013. The examiner can normally be reached on Monday through Friday 8:30 - 6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

T. N.

/Bunjob Jaroenchonwanit/
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